IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7129 OF 2004

Kum. Krishna Madhavrao Chopdekar
and others .... Petitioners
Vs.
Ashoksingh Sundersingh Pardeshi .... Respondent

Shri P.G. Lad for the Petitioners.

Sarvasri Nitin Mulye for G.S. Godbole
for the Respondent.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: SEPTEMBER 20, 2004

P.C:

1. Heard the learned Advocates for the parties. Perused the records.

2. The petitioners challenge the concurrent findings arrived at by the Courts below on the point of acquisition of alternative suitable accommodation by the petitioners, the ground on which the decree of eviction has been passed against the petitioners in relation to the suit premises. The only challenge argued in the matter pertains to failure on the part of the trial Court to consider the suitability of the alternative accommodation inspite of the fact that the law requires that the alternative accommodation acquired by the tenant should be suitable one for his accommodation.

Undisputedly, in relation to the specific pleadings in that regard, only defence which was raised by the petitioners was that the alternative accommodation acquired by the petitioners was purchased in her name by her brother residing in the U.S.A. In other words, the investment for the purchase of the alternative accommodation has been done by the brother of the petitioners and that therefore it is not suitable accommodation for the petitioners.

3. The trial Court on analysis of the evidence has arrived at the finding that apart from mere oral statement by the petitioners that the premises have been acquired with the money sent by her brother from the U.S.A., no evidence in that regard has been placed on record by the petitioners. In other words, the ground relating to non-suitability specifically raised by the petitioners has not been established by the petitioners. On the point of suitability of the accommodation, no other defence was raised by the petitioners. In the circumstances, no fault can be found with the order of the trial Court on the aspect of suitability of the alternative accommodation acquired by the petitioners.

4. The above finding has been confirmed on analysis of the evidence on record by the Appellate Court and the analysis does not suffer from any arbitrariness and on

the contrary it discloses that the same has been done in proper perspective.

5. As no other point is canvassed, the petition fails and is hereby rejected.

6. At the oral request of the learned Advocate for the petitioners, time to vacate the premises is extended till 31-1-2005, subject to that the petitioners along with all the major persons residing with them should file undertaking before the Registrar (Judl.) of this Court assuring that they will deliver the vacant and peaceful possession of the suit premises on or before 31-1-2005 and will not induct any third person therein nor will create any third party interest therein till then. The undertaking to be filed within four weeks. The failure to file the undertaking will automatically result in vacating the order granting the extension of time.

7. Parties may be issued the authenticated copy of this order.